IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7390 OF 2005

State of Maharashtra .....Applicant.
(Orig. Complainant)

V/s

Appasaheb S/o. Pandurang Shinde .... Respondent.
(Orig. Accused)

Mr. Y.M. Nakhwa, APP for the State.

Mr. U.R. Agandsurve for the Respondent.

CORAM: V.M. KANADE, J.
DATE : 6th September, 2007

P.C.:

1. Heard the learned APP appearing on behalf of the State and the learned Counsel appearing on behalf of the respondent.

2. Applicant - State has filed this application for leave to file an appeal against the order of acquittal passed by the Trial Court whereby respondent was acquitted of the offence punishable under section 279 of the Indian Penal Code read with Section 184 of the Motor Vehicles Act.

3. The learned APP appearing on behalf of the applicant has taken me through the judgment of the Trial Court and also the notes of evidence. The Trial Court has observed

that there is material contradiction in the statements of witnesses regarding happening of the incident. After having appreciated the evidence on record, the Trial Court was of the view that the Investigating Officer also had not investigated the matter properly and, therefore, came to the conclusion that the prosecution has failed to prove that the accused drove his car in a rash and negligent manner and, thereafter, endangered the human life. It has also come on record that no injury was caused to any person. In my view, it is a settled position in law that unless the finding recorded by the Trial Court is perverse or contrary to the documentary and oral evidence on record, this Court, while exercising its jurisdiction under section 378 of the Criminal Procedure Code, should not interfere with the impugned order. Apart from that, when two views are possible and one view has been taken by the Trial Court, this Court should not substitute its own view to the view taken by the Trial Court. Hence, no case is made out for granting leave. Leave to file appeal is refused. Application is dismissed.

(V.M. KANADE, J.)